

# NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

*Minutes of Hearing - September 14, 2007*

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## **Attendance:**

Senator Robert Clegg, Chairman, designee for Dept of Safety  
Robert Ives, NH Plumbers and Mechanical Contractors Association, mechanical contractor  
Jon Osgood, Public Utilities Commission, state energy conservation code office  
Mark Weissflog, NH Electrical Contractors Business Assoc., licensed master electrician  
Michael Hoisington, Fire Marshal, NH Association of Fire Chiefs, active fire prevention officer  
John Tuttle, NH Home Builders Association, Architectural designer - residential  
Thomas Malley, Bureau of Electrical Safety and Licensing, licensed master electrician  
Laura A. Black, PE - Board of Engineers, licensed electrical engineer  
Mike Santa, CBO, Governor's Commission on Disability, Architectural barrier/free design  
Jerry Tepe, Board of Architects, licensed architect  
Wayne A. Richardson, NH Building Officials Association, municipal building official  
Tedd Evans, Board for Licensing and Regulation of Plumbers, licensed master plumber  
Joel Fisher, Board of Engineers, licensed structural engineer

## **Excused:**

Fred Baybutt, Associated General Contractors, building contractor - non-residential bldgs.  
Thomas Lambert, Chief, NH Association of Fire Chiefs, Municipal Fire  
James Petersen, PE, Board of Engineers, licensed mechanical engineer

## **Absent:**

VACANT, NH Municipal Association

## **Guests:**

Marta Modigliani, Legal Counsel, Office of the Commissioner Dept of Safety  
Friedrich Moeckel, Legal Counsel, Tarbell & Brodich for Vinewood Development Company  
Ron Anstey, Fire Inspector/Investigator Fire Marshal's office

Chair Clegg declared the continued hearing open with a quorum of Board members present. The Chair recognized the two new members to the Board, Robert Ives and Michael Hoisington. A hearty "Welcome Aboard" to both.

## **GENERAL MEETING**

*SCB 01-07: Vinewood v. State Fire Marshal*

Chair Clegg stated that in order to deal with the Vinewood case, the request to re-consider the Fire Marshal's decision of August 10 - because the Board did not have subject matter jurisdiction to hear Vinewood's appeal. He recognized that fact that the official notice which was the AGENDA for today's meeting as notification to both parties - was not sent to them in a timely manner. The AGENDA was hand delivered to the State (Modigliani) and was faxed to the Appellant (Moeckel). If both parties ***Agree to Waive the Notice*** - we can continue today - if not - then we will have to reschedule to October. Attorney Moeckel asked if this was an adjudicative hearing. He stated that he would **Move** this hearing to the October date for the regular meeting. Chairman Clegg apologized again. Attorney Modigliani agreed to **Move** this hearing to the October date for the regular meeting.

Adoption of meeting minutes from June 8, 2007:

Wayne Richardson made the **Motion** to accept the minutes as written. John Tuttle **Seconded** the **Motion**. Discussion: None. Vote was **Unanimous to accept with one abstention** being Tom Malley.

Adoption of meeting minutes from June 29, 2007:

Mark Weissflog made the **Motion** to accept the minutes as written. Jerry Tepe **Seconded** the **Motion**. Discussion: None. Vote was **Unanimous to accept with one abstention** being Tom Malley.

## OLD BUSINESS

Modular Home Industry tour - schedule:

Chair asked to have this item wait until after the Holidays.

Energy Code Compliance Discussion:

Jon Osgood asked to have it tabled again. Wayne Richardson said this discussion started with concerns with the application of the Energy Code and the lack of proper application and how we go about fixing it. Its more of a how do we get compliance is the concern.

FAQ errors/Section on website - revisions:

Jerry reported that we started several months ago to update it and revise some of the FAQ's and as far as he knows they are not back up yet on the website. Chair Clegg asked if the revisions were done and completed. Marta and Evvy are working on updating them. Chairman Clegg wants the section updated by the 30<sup>th</sup>. There was a hang-up on the interpretation of the RSA and the same thing under the terms of egress. Laura Black asked if RSA 155 states that the State Fire Marshal's office makes that decision. Chairman Clegg stated yes. The State Fire Marshal has the right to designate anyone he sees fit as his designee in that location. Marta will work on this for the next meeting. There should be something on the site that says we are not the arbitrator between you and your contractor. Tedd Evans also suggested that says if you have no building code enforcement officer - your local selectman under the law has the authority, or for Fire Safety it would be the State Fire Marshal's office.

## NEW BUSINESS

E-mail letter from Mark Dinneen ICC Washington DC:

Was information for the Board. Jerry reported that he did not know the current status. The House and Senate were working on an energy bill - and part of the Bill in essence, would allow the

Department of Energy write their own Energy Conservation Code - superseding the International Energy Conservation Code. Just information for the Board members.

Re-adoption of the previous amendments as necessary.

These will need to be put on the AGENDA as a **Public Hearing**. Jon Osgood has a point re-adoption on Bcr 301-A:6 - its no longer necessary as it has been adopted into the Code.

E-mail article on air ducts.

Jerry stated that again this article was informational for the Board members. It has become aware of on the National level - so something may be coming down the pike in the future. Chairman Clegg asked if there was anything this Board wants to do to make a change? There have been 4 more incidents where kids have gone thru. Does anybody want to make it hard pan underneath the vent? Need to notify Evvy to put on agenda. John Tuttle suggested that maybe a sub-committee would be better to discuss this before doing a change. Jon Osgood comment - if we are getting comments, surely they are getting comments around the nation. Jerry said that in the article they only quoted 3. Bob Ives says it looks more like to him as an installation problem that is why the failure occurred. Bob Ives, John Tuttle and Tedd Evans will be on the sub-committee. Rick Swain, past Board member, says he has a lot of information on this issue he will share with the sub-committee.

Proposed Amendments

Exhibit 29, Exhibit 30 will be cleaned up to have just new items. John Tuttle asked if we needed a vote to make all of these Exhibits.

Exhibit 31, Exhibit 32 - Jon Osgood address that the Energy Code and the Residential Code break the State of New Hampshire into two climate zones. The PUC by Rule has stated that the State is only 1 climate zone which is Concord. The new Code spits the 4 southern counties with a significant population from the 6 northern counties. It is silly for a state as homogenous as NH to be divided in two. He recommends that we go to a single climate zone - still using Concord as the nexus and make that Climate zone and make that zone - zone 6 for the entire state. Wayne Richardson asked if this change would screw up the software that is out there? DOE has modified the RES Check into NH Check and they have used Concord as the default location and they will do the same. It was not requested that COM Check be modified - but it should be.

Exhibit 33, Exhibit 34, Exhibit 35 - Laura said its regarding fire and smoke dampers in chemical fumes that occur. There is a conflict between NFPA 45 and the International Building Code as well as the International Mechanical Code. The ICC was contacted on this and they have admitted that this was a mistake and it will be a draft in a future Code. Literally anyone building their building or renovating has to building against the Code - and even the local official somehow have to work this out. It's certainly a safety hazard. Exhibit 35 is background information.

Tom Malley made the **Motion** to put all of these Exhibits (proposed amendments) onto the Public Hearing. **Motion** was **Seconded** by Tedd Evans. Discussion: None. Vote taken was **Unanimous** in favor. **Public Hearing** will be October 12.

**OTHER BUSINESS**

Tom Malley said that he wanted to make the Board aware that in October the Bureau of Electrical Safety and Licensure MAY be introducing the 2008 National Electrical Code for adoption to start the process so that it will become effective January 1, 2008. Mark Weissflog pointed out that the 2008 Code books have not yet been printed and the Board would not be able to review a Code that had not yet been printed. In addition, the public would need a reasonable amount of time to review the proposed 2008 NEC and be able to comment.

Wayne Richardson stated that it was brought up at a recent meeting he attended - with the new adoption of the Codes - some were having difficulties with their local ordinances - not being correctly written to reflect how they do their enforcement action. One member said that they have been told by their municipal council that because their local enforcement ordinance does not specifically state the same edition as the new newly adopted Codes - they are not legally able to enforce them. He would like this Board to get a legal opinion from council on: **"Where a community has adopted enforcement mechanisms under RSA 674:51 and that mechanism does not have language stating the Code that is to be enforced is the 'current' state building codes - would the municipality have standing to enforce provisions of the current state codes prior to modification of the existing local ordinance."** Chairman Clegg asked Wayne to have them go to the Municipal Association - and ask them what they will do IF we bring in a legal opinion to clarify that. Wayne said the legal folks at the LGC did not want to weigh in on this issue. Tedd Evans said that the towns are getting all different answers from their legal councils. Senator Clegg will ask Bill that clarifies the local officials authority to enforce the state-wide building code without the local community officially adopting the code in their ordinances.

Chairman Clegg said Residential Home Inspectors needs to be brought forward again. Jerry asked if there was something already formulated in another State that would work here. The Chair stated it would be better if it were totally "homegrown". Tedd Evans suggested that they all pass the IRC test for plumbing, the IRC test for contractors, etc for all the different trades. Make them pass that period. It's a national exam, it's got all the basics you would need to know in all those fields - it does not require you to be an expert. It requires you be able to know that a Code exists. That there are things that are in the Code and it would give you a pretty good idea of what kind of things you should be looking for. Joel Fisher asked if there was a test for building inspectors. There are inspector certification examinations, but Tedd said he was talking about the contractor examinations. Mark Weissflog said that this test would be from current Code - and a home inspector would need prior code. Chairman Clegg asked each representative on the Board, electrical, plumbing, plumbing and mechanical, energy, contractors, fire safety, architects, etc. put together a few questions for his review that would be appropriate as a potential question for certifying someone to become a Residential Home Inspector. Chairman Clegg will put together a list of items that will be checked on an inspection - and will send it out electronically to each Board member. This Board will NOT become a licensing board.

Mike Santa was contacted by a Representative who was interested in having a Bill that would require some certification for inspectors. Her issue is accessibility because of disabilities. He is going to meet with her on Monday to get more information. The Chair stated that you expect to inspect - what you are not licensed to perform. When it comes to certification - it makes for extra caution. Tedd Evans stated that a town does not have to have an electrical inspector - but if you do - then they have to be licensed. A 28-A issue.

Jerry Tepe brought in some brochures for information purposes for Board members, for the Build Boston Conference in November. It's the largest construction industry conference - 3 days.

#### **ADJOURNMENT**

**Motion** to adjourn was moved and properly **Seconded**. Discussion: None. Vote take was **Unanimous in favor**. Chair Clegg declared the meeting adjourned.